

GOP-Driven Legislation: Divisive Partisan Politics

ALEC Legislation—State GOP Gets Marching Orders

Lest anyone think that things could not get any less transparent, this final section deals with legislation introduced by a non-elected, business-driven body that actively subverts the sunlight rulemaking process across the country. The American Legislative Exchange Council (ALEC) is a national organization that writes "model" legislation, which ALEC then gives to lawmakers whose campaigns have received contributions from ALEC donors. ALEC promotes very conservative pro-business causes. The vision of ALEC is to privatize almost all functions of government, with the exception of national security. For example, eliminating public education, infrastructure, Medicare, Social Security, and government-run prisons are all goals of ALEC.

As described by *The Nation* in one of the first articles to expose the secretive ALEC organization back in 2011, "ALEC's model legislation reflects long-term goals: downsizing government, removing regulations on corporations and making it harder to hold the economically and politically powerful to account." And in an updated description on August 29, 2018, by the Center for Media and Democracy, "While it masquerades as a charity, ALEC is actually a powerful corporate-funded, pay-to-play group that brings lawmakers, lobbyists, and other right-wing groups together to vote side-by-side on bills that legislators then take back and introduce in their home states, usually without any public disclosure of their source. The Center for Media and Democracy teamed up with Common Cause in 2012 to file an IRS whistleblower complaint against ALEC, charging the group with tax fraud and massively underreporting its lobbying activity." ALEC very much remains a formidable behind-the-scenes power broker, celebrating its upcoming 45th Gala on September 26, 2018, at the Trump International Hotel, in Washington, D.C.

Sources:

<https://www.thenation.com/article/alec-exposed/>

https://www.sourcewatch.org/index.php/American_Legislative_Exchange_Council

<https://www.prwatch.org/news/2018/08/13386/%E2%80%9Cnonpartisan%E2%80%9D-alec-will-celebrate-45th-gala-gop-stars-and-lobbyists-trump-hotel>

ALEC consists of both corporate members and legislative members. Although ALEC claims to be bipartisan, the vast majority of legislative members are Republicans. Most of its funding comes from corporations, trade associations, and the foundations of very wealthy individuals. Entities controlled by the Koch brothers have been major donors, but many other right-wing groups also give substantial amounts. However, ALEC does not reveal its members, either corporate or legislative.

Insight into the following ALEC-driven legislation was made possible only because of a whistleblower back in the 2011 timeframe. That leak allowed researchers to compare model ALEC language with actual legislation introduced into the Michigan legislature, thereby

demonstrating external interference in state government. Michigan bills from 2011 and 2012 with such direct links to ALEC models are discussed below.

Since that time ALEC has apparently made great strides in protecting its source data and controlling membership defections. Without access to ALEC models, it is difficult to say specifically which additional Michigan laws were written by ALEC rather than by elected Michigan legislators. However, in a separate document, Local Majority researchers have identified more recent Michigan legislation that reflects ALEC ideology. Many are preemption-style bills that prevent local governments from adopting regulations that are more progressive than state-level standards (e.g., a higher minimum wage). Such suspect bills bear watching by an involved Democratic legislature committed to *truly open government*.

ANTI-HEALTHCARE

HB 4693 / SB 973—HB 4693, introduced in the Michigan House in 2011, and SB 973, introduced in the Michigan Senate in 2012, are identical pieces of legislation. These bills pose a risk to thousands of Michiganders' access to affordable healthcare. Both would allow Michigan to enter into a healthcare compact—an effort to bypass and reject the Affordable Care Act, which gave expanded access to affordable healthcare to thousands of Americans by not permitting insurers to refuse coverage to any individual based on preexisting conditions, extending the time a young adult can stay on his or her parents' plan, and implementing reforms that will help lower overall healthcare costs. See SR 120 below for ALEC association.

HB 4693 referred to House Health Policy Committee on May 26, 2011; no further action

SB 973 referred to Senate Health Policy Committee on February 16, 2012; reported favorably without amendment to the Senate on March 20, 2012; no further action

SR 120—This resolution supports the passage of SB 973 (above), using almost identical language to an ALEC model that was presented and adopted by ALEC's Health and Human Services Task Force at the August 2011 meeting in New Orleans. It is unknown if the model has been officially approved by the ALEC Board of Directors.

Referred to Senate Health Policy Committee on February 21, 2012; reported favorably without amendment to the Senate on March 20, 2012; no further action

HB 4050—Introduced as The Michigan Health Care Freedom Act, HB 4050 is an attempt to take away thousands of Michiganders' access to affordable healthcare by allowing the state of Michigan to opt out of the Affordable Care Act. ALEC pushes the same idea in its model Freedom of Choice in Health Care Act.

Referred to House Health Policy Committee on January 13, 2011; no further action

ANTI-ENVIRONMENT AND ANTI-CONSUMER PROTECTION

HB 4601—Michigan’s HB 4601 strips away the rights of Michiganders who have been exposed to deadly asbestos by limiting the liability of the faulted corporation if the company has merged or consolidated with another corporation. HB 4601 shares exact language with much of ALEC’s model Successor Asbestos-Related Liability Fairness Act, including provisions that define an “asbestos claim” and describe the types of claims not covered by the bill. HB 4601 was included in ALEC’s 2011 legal reform legislative tracking document. One of ALEC’s long-time funders and corporate leaders is Crown, which is responsible for untold amounts of asbestos exposure. This bill is little more than a corporate giveaway that would benefit Crown and other corporations at the expense of the rights of Michiganders. It also reverses traditional components of corporate and contract law by allowing a corporation to buy the assets of another corporation but not the liabilities. It allows a corporation to secure its assets from injured Americans by transferring them to another corporation, while retaining its liabilities for the asbestos products from which it profited, thereby preventing injured American workers and consumers from holding the corporate assets to account.

Signed into law by Gov. Rick Snyder on April 10, 2012

HR 19—Resolution in Opposition to EPA’s Plan to Regulate Greenhouse Gases under the Clean Air Act (HR 19) ignores dangerous health and environmental risks associated with pollution and greenhouse gases, and instead calls for the EPA to stop regulating greenhouse gases. The resolution also calls on the U.S. Congress to adopt legislation prohibiting the EPA from regulating greenhouse gas emissions. ALEC has also called on the EPA to stop regulating polluters and its corporate sponsors, such as the Koch brothers and Exxon Mobil, in its model Resolution in Opposition to EPA’s Plan to Regulate Greenhouse Gases under the Clean Air Act.

Passed House 65 – 44 on March 2, 2011

HB 4936—The Consumer Choice Motor Vehicle Insurance Act (HB 4936) would put thousands of Michiganders at risk by allowing drivers to meet the state’s insurance requirements through the purchase of cheap insurance unlikely to be sufficient to cover the medical costs from a serious accident. The bill allows a minimum of \$250,000 in coverage, which immediate medical bills can easily exceed in a major collision, potentially imposing on state taxpayers the cost of medical care for seriously injured adults and children that would otherwise have been covered by insurance under Michigan’s long-standing rules. The bill’s primary and only sponsor, Rep. Peter Lund (R-36), is a member of ALEC’s Commerce, Insurance, and Economic Development Task Force—the same task force that adopted ALEC’s model Consumer Choice Motor Vehicle Insurance Act. Besides sharing the same name, both the ALEC model and HB 4936 allow automobile insurance customers to choose the level and type of personal liability insurance, regardless of the effect on taxpayers, who ultimately bear the cost of uncovered medical expenses, or on

hospitals, who cannot collect from patients who are unable to pay their bills. However, the bills are not identical in all of their components, just in their intent and primary objective. *Referred to House Insurance Committee on September 13, 2011; reported to House with substitute and recommendation to pass on October 13, 2011; no further action*

HR 134—This bill promotes a polluter agenda by allowing Michigan to pull out of the Midwestern Greenhouse Gas Reduction Accord, a cap-and-trade program to cut greenhouse gases and carbon-dioxide emissions. HR 134 shares exact language with ALEC’s model resolution State Withdrawal from Regional Climate Initiatives. Both Michigan’s HR 134 and ALEC’s model resolution use language that denies climate change and benefit ALEC’s corporate sponsors, such as Koch Industries, Exxon Mobil, and BP. *Referred to House Energy and Technology Committee on September 27, 2011; no further action*

VOTER SUPPRESSION

HB 5221—This bill attacks the basic civil rights of the elderly, students, immigrants, the poor and minorities by requiring Michiganders to provide evidence of U.S. citizenship (via a driver’s license, a birth certificate, or an ID card issued by the Department of State) in order to register to vote. States that have implemented such rules have created a catch-22 situation for some Americans by requiring a birth certificate to obtain a photo ID, and a photo ID to obtain a copy of a birth certificate. Such legislation has suddenly disenfranchised thousands of Americans who were born here and have been voting for years. HB 5221 shares exact language with ALEC’s model Taxpayer and Citizen Protection Act, including provisions that detail the appropriate forms of identification, who must show identification based on previous registration status, and how long a locality must hold a person’s citizenship information.

Referred to House Redistricting and Elections Committee on December 13, 2011

ANTI-IMMIGRATION

HB 4305—Michigan’s HB 4305 requires local governments to enforce federal immigration law and, therefore, interferes with local law enforcement’s ability to decide how best to allocate resources and with their community relations. HB 4305 borrows language from ALEC’s model Immigration Law Enforcement Act about verifying a person’s immigration status and turning undocumented immigrants over to the federal government. ALEC’s model bill is an abbreviated version of Arizona’s controversial SB 1070, parts of which were recently struck down by the U.S. Supreme Court.

Referred to House Judiciary Committee on February 22, 2011; no further action

HB 4024 / HB 4026—These two immigration bills are very similar to ALEC’s model Fair and Legal Employment Act in that they require state contractors and employment agencies to verify employees’ immigration status through the federal E-Verify system.

Conservatives such as Rep. Steve Chabot [R-Ohio] called an earlier version of E-Verify “1-800-Big-Brother” because system errors caused some citizens and documented workers to lose job offers from employers who knew them personally only because a faceless bureaucrat in Washington determined that their name was the same or similar to someone else’s.

Both bills referred to House Commerce Committee on January 13, 2011; no further action

ANTI-LABOR

SB 938—Prohibition on Compensation Deductions Act (SB 938) prohibits public employers from deducting or collecting union dues. The general intent of SB 938 is similar to ALEC’s model Prohibition on Compensation Deductions Act, which also prohibits public employers from deducting union dues for public workers. Not surprisingly, the bill was co-sponsored by ALEC’s former Michigan Chairman, Senator Tonya Schuitmaker.

Referred to Senate Reforms, Restructuring and Reinventing Committee on February 14, 2012; no further action

HB 4224—This bill would lower wage standards in Michigan by repealing Michigan’s prevailing wage law. ALEC’s model Prevailing Wage Repeal Act does the same thing. Prevailing wage laws are intended to achieve high-quality work on public projects by ensuring that high-quality contractors bid for government projects. Prevailing wage laws prohibit awarding government contracts to contractors who submit the lowest bid unless the contractor pays “prevailing wages,” which are based on union pay scales in a particular part of a geographic region. ALEC opposes prevailing wage, living wage, minimum wage, and other laws that provide protection for workers who have little power to negotiate for wages. *Referred to House Oversight, Reform, and Ethics Committee on February 10, 2011; no further action*

Legislative update: After years of anti-labor efforts to repeal Michigan’s prevailing wage law, the GOP-led legislature just succeeded by passing Legislative Initiative Petition 2 on June 6, 2018.

CONSTITUTIONAL CONVENTION AND AMENDMENTS

SCR 14—Michigan’s SCR 14 is a dangerous attack on traditional American federalism. It petitions the U.S. Congress to submit to the states for ratification a constitutional amendment that would establish a new process for amending the U.S. Constitution in the future. If ratified, Congress would be compelled to call a constitutional convention to consider a specific amendment proposed by at least two-thirds of the nation’s state legislatures, i.e., whenever 33 or more states (regardless of their population size) propose an identical single-issue constitutional amendment. At the convention the states would vote on that specific amendment. Passage would require approval by three-fourths of the states (38 states). Originally promoted by the Tea Party, this new process would allow state

legislatures to call for the repeal of any federal law with which they disagree—a dangerous situation when the controlling party has gerrymandered the state legislative districts so that the state legislature no longer reflects the opinions of the majority of the state’s population. For example, states that are dominated by energy corporations could use this procedure to repeal longstanding national environmental regulations that protect America’s clean water and air.

Referred to Senate Government Operations Committee on April 12, 2011; no further action

Sources:

<https://www.michiganvotes.org/Legislation.aspx?ID=131319>

<http://www.legislature.mi.gov/documents/2011-2012/concurrentresolutionintroduced/Senate/htm/2011-SICR-0014.htm>

<https://www.nytimes.com/2010/12/20/us/politics/20states.html?scp=1&sq=amendment%20repeal&st=cse>

SCR 26 / SR 115—SCR 26 and SR 115 both call on the U.S. Congress to pass a balanced-budget amendment to the U.S. constitution. Critics say that such an amendment would limit the government’s ability to respond to emergencies and eliminate flexibility in hard times. ALEC’s model Balanced Budget Amendment Resolution also calls on Congress to pass a balanced-budget amendment. ALEC member Goeff Hansen pushed both resolutions in order to cut government spending, yet Hansen had no problem using taxpayer money to pay ALEC membership dues four times between 2005 and 2009.

Both resolutions referred to Senate Government Operations Committee on February 8, 2012; both reported favorably without amendment to Senate on February 22, 2012; substitute for SR 115 offered on March 20, 2012; no further action

ANTI-SAFETY NET PROGRAMS

HB 4409—This right-wing bill targets the poor and Michigan’s basic safety net programs. Both Michigan’s HB 4409 and ALEC’s model Time Limits on TANF Benefits set a 48-month time limit on benefits for state welfare recipients. It is not surprising that Rep. Ken Horn (R-94), the bill’s primary sponsor, is an active ALEC member, and co-sponsors Rep. Kenneth Kurt (R-58) and Rep. Matt Lori (R-59) sit on ALEC’s Health and Human Services Task Force—the same task force that created the ALEC model legislation.

Signed into law by Gov. Rick Snyder on September 6, 2011

PRIVATIZATION

HB 4453—This bill is a step towards privatizing government services by prohibiting government entities from competing against private companies. In addition to potential layoffs of public workers in Michigan, the bill also creates penalties for government entities that do not outsource traditional public services. Such legislation forces more tax dollars to be spent on funding private corporations at public expense. HB 4453 is similar to ALEC’s

model Competitive Contracting of Public Services Act, and two of the three co-sponsors are active members of ALEC.

Referred to House Oversight, Reform, and Ethics Committee on March 16, 2011; no further action

PARENTAL RIGHTS

HCR 11—This resolution supports the Parental Rights Amendment, which would allow parental decisions to supersede government regulations regarding the education and care of children, such as the requirement for vaccinations prior to enrollment in public school.

Passed House 71 – 39 on June 12, 2012; referred to Senate Government Operations Committee on June 13, 2012; no further action

Legislative update: Opponents of the Parental Rights Amendment (which has been reintroduced and tabled for many years) argue that the amendment and its broad language would actually legitimize corporal punishment and allow parents to abuse and neglect their children. Conversely, Democrats put the child’s rights above the parents’ rights. In March 2018, Michigan Democrats sponsored Senate Joint Resolution Q to establish “the best interests of the child” as the standard for determining whether parental rights should be terminated in child custody proceedings, juvenile justice cases and cases of child abuse and neglect.

Source:

<https://www.mackinac.org/constitutional-amendments-on-parents-rights-state-university-boards-more>